

## TITLE 16

### DEPARTMENT OF REGULATORY AGENCIES

#### CHAPTER 2

#### HAWAII TEMPORARY DISABILITY INSURANCE RISK SPREADING PLAN

§16-2-1	Purposes
§16-2-2	Members of plan
§16-2-3	Premium rates
§16-2-4	Eligible groups
§16-2-5	Plan management committee
§16-2-6	Placement and withdrawal
§16-2-7	Report to plan manager
§16-2-8	Review by plan manager
§16-2-9	Determination of net gain or loss
§16-2-10	Annual allocation of cost

Historical Note: Chapter 2 of title 16, Administrative Rules, is based substantially upon Chapter 3, title V, Department of Regulatory Agencies, entitled "Hawaii Temporary Disability Insurance Risk Spreading Plan." [Eff 1/1/70; R 6/22/81]

§16-2-1 Purposes. The purposes of this chapter are to:

- (1) Make temporary disability insurance coverage available to employer applicants, subject to the conditions hereinafter stated; and
- (2) Establish a reasonable plan for the equitable apportionment among insurers of any net loss resulting from the operation of the risk spreading plan. [Eff 6/22/81] (Auth: HRS §431:2-201) (Imp: HRS §392-41)

§16-2-2 Members of plan. Each insurer providing insurance under the law must agree in writing, by execution of the insurer's agreement located at the end of this chapter, and which is made a part of this chapter, to be members of the plan. [Eff 6/22/81] (Auth: HRS §431:2-201) (Imp: HRS §392-41)

§16-2-3 Premium rates. Premium rate charges to employers whose policies are placed in the pool shall not be either inadequate or excessive, as determined from time to time by the insurance commissioner, in relation to the benefits then provided. The premium rate to be charged for such policies shall not exceed 1.5 % of taxable wages as determined pursuant to section 392-43, HRS, or the dollars-and-cents equivalent thereof on a per calendar quarter per life basis. The risk charge to be made by the plan to an insurer for cases put into the plan shall be 1.125 % of taxable wages as determined pursuant to section 392-43, HRS, or the dollars-and-cents equivalent thereof. [Eff 6/22/81] (Auth: HRS §431:2-201) (Imp: HRS §392-41)

§16-2-4 Eligible groups. Only a group having statutory coverage may be placed in the plan. Each insurer shall determine those groups, if any, from among its insured groups in the State that are to be placed in the plan. No insurer shall be permitted to include in the plan only certain lives in an eligible group or insured under one group insurance contract and exclude other lives therefrom, except pursuant to the terms of any collective bargaining agreement currently in effect. An insurer placing an insured group in the plan shall be referred to as a "Participant." Any insurer which provides insurance under the law is referred to as a "Plan Member" whether or not a "Participant." [Eff 6/22/81] (Auth: HRS §431:2-201) (Imp: HRS §392-41)

§16-2-5 Plan management committee. (a) The insurance commissioner shall appoint a plan management committee which shall have the responsibility for the operation of the plan, including:

- (1) The determination and recommendation to the insurance commissioner of changes in the maximum premium rate to be charged employer applicants in the plan; and
  - (2) Establishment of the maximum expense allowance and the administrative cost to be levied against all plan members.
- (b) The committee shall consist of three members, one of which shall be the plan manager. The two members other than the plan manager, shall serve on the committee for staggered two-year terms and the insurance commissioner shall appoint or reappoint a committee member each year to replace the member whose term expires. The plan manager shall be appointed by the insurance commissioner and shall serve until replaced by the insurance commissioner.
- (c) Any member of the plan may appeal to the insurance commissioner from any ruling or decision of the plan manager or the plan management committee. [Eff 6/22/81] (Auth: HRS §431:2-201) (Imp: HRS §392-41)

§16-2-6 Placement and withdrawal. (a) In order to place coverage in the plan the insurer shall file written notice of termination on a form obtained from the plan manager. Groups shall be placed in the plan only on January 1, except that the insurer may place any newly underwritten policy in the plan as of the effective date by notifying the plan manager on the appropriate form prior to thirty-one days after the effective date of the new insurance. In all other cases, the notice of intention must be submitted to the plan manager on or before December 1 of the calendar year preceding the year in which the group is to be placed in the plan. Groups of one hundred or more insured employees may not be placed in the plan, except that the plan manager may, in his discretion, permit a group of one hundred or more employees to be placed in the plan if, because of seasonality or for other reasons, the normal size of the group is less than one hundred, and may decline to place a group of less than one hundred employees in the plan if the normal size of the group is one hundred or more.

(b) A group once placed in the plan shall continue in the plan until the plan manager has received written notice from that participant to withdraw it from the plan. If the group is cancelled because the employer switches to a self-insured plan or to another insurer or ceases to do business, that group shall be withdrawn from the plan as of the effective date of cancellation of the insurance, but the new insurer, if the group continues to be insured, may place that group back in the plan. Otherwise, a group can be withdrawn from the plan only on December 31, and the withdrawals shall be preceded by receipt of written notice to the plan manager prior to December 1 of the calendar year of withdrawal. However, if an insurer ceases to be licensed to transact the business of disability insurance in the State of Hawaii, all groups placed in the plan by the insurer shall be withdrawn from the plan as of the date the insurer ceases to be so licensed. A group shall be withdrawn from the plan as of the close of December 31 if it exceeds any maximum size limitations established by the plan management committee. [Eff 6/22/81] (Auth: HRS §431:2-201) (Imp: HRS §392-41)

§16-2-7 Report to plan manager. Insurers shall report to the plan manager on or before July 1 of each year, in sufficient detail on a form prescribed by the plan management committee, those items needed to permit an audit and the preparation of an annual summary accounting by the plan manager for the preceding calendar year. [Eff 6/22/81] (Auth: HRS §431:2-201) (Imp: HRS §392-41)

§16-2-8 Review by plan manager. As of the end of each calendar year the plan manager shall ascertain the following with respect to each participant:

- (1) The maximum premium chargeable for all of the participant's groups placed in the plan;
- (2) Funds transferred to the participant to cover previous net losses incurred by groups that the participant in the plan;
- (3) Claim payments made with respect to all of the participant's groups placed in the plan;
- (4) Expense allowances credited to the participant;
- (5) Funds transferred by the participant to cover net losses incurred by groups that other participants placed in the plan, excluding the charges described [in] below; and
- (6) An estimate of incurred and unrecorded claims as of December 31 of the calendar year with respect to all of the participant's groups for the periods they were in the plan during any calendar years.

An excess of section 16-2-8(1) and (2) over (3), (4), (5) and (6) shall constitute an accumulative net gain with respect to a participant and an excess of section 16-2-8(3), (4), (5) and (6) over (1) and (2) shall constitute an accumulative net loss.

Section 16-2-8(1) through (5) shall be recorded on an accumulative basis from the time the participant first placed coverage in the plan. Section 16-2-8(6) shall be recorded as the incurred and unrecorded claims outstanding at the end of the period over which the accumulation is made. [Eff 6/22/81] (Auth: HRS §431:2-201) (Imp: HRS §392-41)

§16-2-9 Determination of net gain or loss. (a) As of the end of each calendar year the plan manager shall determine the aggregate accumulative net gain or loss with respect to the entire plan. Paragraphs (1) through (6) of section 16-2-8 shall each be summed for all participants who then have coverage in the plan. The accumulative net gain or loss shall be determined as the difference between the sum of paragraphs (1) and (2) in the aggregate and the sum of paragraphs (3), (4), (5), and (6) in the aggregate on a basis consistent with the net gain or loss determination as defined in this section.

(b) As of the end of a calendar year when the plan is in a net accumulative gain position, there shall be no charges for recovery of plan losses to non-participant plan members.

All participants who at the end of such a calendar year are in a net accumulative gain position shall transfer part of their net accumulative gain to the plan, on a pro rata basis, to cover the total net accumulative loss of any other participants. The allocation ratio for such transfers shall equal the total net accumulative loss of all of the participants who are then in a net accumulative loss position divided by the total net accumulative gain of all participants who are

then in a net accumulative gain position. The amount to be transferred by a participant in a net gain position shall then be determined by multiplying the allocation ratio by the participant's net accumulative gain. The balance of the participant's net accumulative gain not transferred to the plan shall be held by the participant for similar use in future years.

Participants who are in a net accumulative loss position shall then have funds transferred to cover one hundred per cent of the net loss.

(c) A participant who withdraws all of its groups from the plan at the time that the participant has a positive net balance shall transfer the entire net balance to the plan manager at the time that the last group is withdrawn from the plan. The plan manager shall use any such transferred net balances at the time of the next annual plan accounting, to the extent necessary to reduce the aggregate net accumulative loss from all participants having a net accumulative loss before the loss is covered by funds transferred by either participants or non-participant members, and any excess of the transferred net balances not so used shall be held by the plan manager for similar uses in succeeding years.

(d) At the end of a calendar year when the plan is in a net accumulative loss position, all participants who at the end of a calendar year are in a net accumulative gain position shall transfer one hundred per cent of their net accumulative gain to the plan.

The balance of the plan's net accumulative loss shall be covered by charges to all plan members, on a pro rata basis, including both participant and non-participant plan members.

The allocation ratio for such charges shall equal the excess of the net accumulative loss of all participants who are in a net accumulative loss position over the net accumulative gains of all participants who are in a net accumulative gain position, divided by the aggregate taxable wages for the calendar year of Hawaii resident employees covered under all plans providing benefits under the law underwritten by plan members. The charge to each plan member shall then be determined by multiplying an allocation ratio by the aggregate taxable wages for the calendar year of Hawaii resident employees covered under all plans providing benefits under the law underwritten by the plan member.

Participants who are in a net accumulative loss position shall then have funds transferred to cover one hundred per cent of their net loss. [Eff 6/22/81] (Auth: HRS §431:2-201) (Imp: HRS §392-41)

§16-2-10 Annual allocation of cost. The plan manager shall act as clearing house for the charges and payments resulting from the annual allocation. The administrative cost of the plan shall be charged to all members of the plan on an annual pro rata basis. The allocation ratio for the administrative cost

assessment shall equal the annual administrative cost of the plan for a given calendar year divided by the aggregate taxable wages for the calendar year of Hawaii resident employees covered under all plans providing benefits under the law underwritten by plan members. The administrative cost assessment for each plan member shall then be determined by multiplying the allocation ratio by the aggregate taxablewages for the calendar year of Hawaii resident employees covered under all plans providing benefits under the law underwritten by the plan member. [Eff 6/22/81] (Auth: HRS §431:2-201) (Imp: HRS §392-41)

## **INSURER'S AGREEMENT**

Risk spreading plan insurer's agreement. Each insurer shall execute the following agreement and shall file such agreement in triplicate with the insurance commissioner prior to or simultaneously with the first filing of policy forms or riders for approval under the law, one copy of which agreement shall returned to the insurer at its principal place of business:

### **RISK SPREADING PLAN INSURER'S AGREEMENT**

WHEREAS, insurers licensed to transact the business of disability insurance in the State of Hawaii are required to guarantee coverage under the Hawaii Temporary Disability Insurance Law to employer applicants as to whom such coverage would not otherwise be available; and

WHEREAS, a plan has been established to distribute equitably among such insurers the extra cost involved in accepting such employer applicants for insurance.

NOW, THEREFORE, in consideration of the premises, the undersigned insurer hereby agrees to become a member of such plan, to pay such charges and assessments as shall be determined by the plan manager and to permit such audits as the plan manager deems necessary to carry out the operations of the plan. the insurer may appeal to the insurance commissioner of the State of Hawaii any ruling or decision of the plan manager or the plan management committee.

Date: \_\_\_\_\_  
\_\_\_\_\_  
(Name of Insurer)

By \_\_\_\_\_

\_\_\_\_\_  
(Official Title)

Street and No.

\_\_\_\_\_  
Principal Place of Business of Insurer -

\_\_\_\_\_  
Town State Zip Code

Recorded in the office of the insurance commissioner of the State of Hawaii.

Date: \_\_\_\_\_ By \_\_\_\_\_

\_\_\_\_\_  
(Official Title)



DEPARTMENT OF REGULATORY AGENCIES

Chapter 2, Hawaii Temporary Disability Insurance Risk Spreading Plan Rules of Practice and Procedure, on the Summary Page dated May 28, 1981 was adopted on May 28, 1981 following a public hearing held on May 28, 1981, after public notice was given in the Honolulu Star-Bulletin on May 8, 1981.

These rules shall take effect ten days after filing with the Office of the Lieutenant Governor.

/s/ Mary G.F. Bitterman  
MARY G.F. BITTERMAN  
Director of Regulatory Agencies

APPROVED AS TO FORM:

/s/ Ruth I. Tsujimura  
Deputy Attorney General

/s/ George R. Ariyoshi  
GEORGE R. ARIYOSHI  
Governor  
State of Hawaii

Date: June 10, 1981

June 12, 1981  
Filed